

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MICHIGAN**

IN RE:

Kenneth L. Wyrick
Sandra K. Wyrick

Case No. 19-00198-swd
Chapter 12
Hon. Scott W. Dales

Debtors.

MOTION FOR RELIEF FROM AUTOMATIC STAY

NOW COMES Isabella Bank, ("Bank") by and through its attorneys Braun Kendrick Finkbeiner P.L.C., and for its Motion says:

1. That the Debtors commenced this case on January 17, 2019.
2. That the Debtors have continued in operation of their dairy operation with the use of cash collateral secured to Bank pursuant to agreed Interim Order Authorizing Adequate Protection and Use of Cash Collateral which would terminate by its terms on May 17, 2019, unless extended.
3. That on July 25, 2014, Debtor Kenneth L. Wyrick purchased real property in Shiawassee County (the "Subject Property") for a purchase price of \$700,000.00 as appears from Exhibit A attached hereto and described as:

Section 26, T8N, R1E, the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ AND the East $\frac{1}{2}$ of the SW $\frac{1}{4}$, EXCEPT Commencing 39 rods North of the SW corner of Section, thence East 15 rods, North to the North line of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$, thence West to the West Section line, thence South along the West line to the beginning, ALSO the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ AND the South $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$, EXCEPT Commencing at the SE corner of Section, thence West 212 feet, North 253 feet, East 14 feet, North 407 feet, East 198 feet, South 660 feet to beginning, ALSO EXCEPT Commencing at the South $\frac{1}{4}$ post, thence S 89°30'E, 844.19 feet to the place of beginning, thence N 00°30'E, 313.10 feet, thence S 89°30'E,

278.29 feet, thence S 00°30'W, 313.10 feet, thence N 89°30'W, 278.29 feet to beginning, Fairfield Township, Shiawassee County, Michigan.

4. That that Debtors on August 26, 2016 executed their promissory note payable to Bank in the original principal amount of \$921,572.72 as appears from Exhibit B attached hereto.

5. That the promissory note was secured by a real property mortgage executed by Debtors on July 25, 2014 and recorded with the Shiawassee County Register of Deeds as appears from Exhibit C attached hereto.

6. That the real property mortgage includes the Subject Property and other property located in Clinton County and which properties are not contiguous.

7. That the Debtors have valued the Subject Property at \$186,844.00 on their Amended Schedule A & B.

8. That Shiawassee County has valued the Subject Property at \$653,800.00 being twice the SEV of \$326,900.00.

9. That the balance owing on the promissory note is \$875,845.00, exclusive of attorney's fees and costs.

10. That the Debtors have no equity in the Subject Property.

11. That the Subject Property is located at a distance from the Debtors' dairy operation.

12. That the Debtors propose to sell the Subject Property.

13. That the Debtors' retention of the Subject Property is not necessary to the Debtors effective reorganization.

14. That 11 U.S.C. §362(d)(2) provides that this Court shall grant relief from the automatic stay:

“(2) with respect to a stay of an act against property under subsection (a) of this section if:

(A) the debtor does not have an equity in such property;
and

(B) such property is not necessary to an effective reorganization”

15. That in addition to Bank, Shiawassee County has a claim for unpaid real estate taxes on the Subject Property in the amount of \$7,700.00.

16. That attached hereto as Exhibit D is the proposed Order.

WHEREFORE, IT IS PRAYED THAT the automatic stay of 11 U.S.C. §362 be modified to permit Isabella Bank to enforce its remedies in the mortgage as to the Subject Property only.

Dated: April 26, 2019

BRAUN KENDRICK FINKBEINER P.L.C.

/s/ Kenneth W. Kable

Kenneth W. Kable (P15635)

Attorney for Isabella Bank

4301 Fashion Square Boulevard

Saginaw, Michigan 48603

989-399-0201

kenkab@braunkendrick.com